

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)

William Crismore et al.)

Serial No. 10/692,031)

Filed: October 23, 2003)

ELECTROCHEMICAL)
BIOSENSOR TEST STRIP)

Before the Examiner:

Lyle Alexander

Group Art Unit 1743

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on January 19, 2007.

Thomas Q. Henry
Name of Registered Representative

Thomas Q. Henry
Signature

January 19, 2007
Date of Signature

**THIRD SUPPLEMENTAL INFORMATION
DISCLOSURE STATEMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the duty of disclosure embodied in 37 C.F.R. 1.56, Applicant wishes to bring to the attention of the Examiner the following patents, publications and/or other information listed on the enclosed PTO Form PTO/SB-08A and/or PTO/SB-08B. This information has not been previously submitted in this application, and has not been heretofore cited by the Examiner. Copies of cited items are enclosed in accordance with 37 C.F.R. § 1.98.

In addition to other art identified herein, applicant has determined that a prior art device marketed by Bayer Corporation under the trademark GLUCOMETER ELITE® was being sold more than a year before the earliest priority date for this application, and therefore

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into the strip, but would not be able to tell if it was filling the capillary channel or some lesser portion of the interior of the strip.


The Glucometer Elite test strip fails to provide opaque and/or colored portions which define a viewing area that confirms sufficient filling of the test strip when that viewing area has been filled with the blood sample. The opaque portions of the Glucometer Elite strip are not aligned with the sides of the capillary.

The identified information, taken alone or in combination with other art, provides information relating to the subject matter of the invention, but fails to teach, disclose or suggest the present invention. The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b).

This Statement is being submitted more than three months after the filing date of the application and after the mailing of the first Office Action on the merits, but before the mailing of a final action under § 1.113 or a Notice of Allowance under S 1.311.

In accordance with § 1.97(c), the fee as set forth in § 1.17(p) is enclosed. The United States Patent and Trademark Office is authorized to charge any deficiency or credit any refund to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

By 
Thomas Q. Henry, Reg. No. 28,309
Woodard, Emhardt, Moriarty,
McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456

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| Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT (Use as many sheets as necessary) | | | | Complete if Known | |
| | | | | Application Number | 10/692,031 |
| | | | | Filing Date | October 23, 2003 |
| | | | | First Named Inventor | William CRISMORE |
| | | | | Art Unit | 1743 |
| | | | | Examiner Name | Lyle Alexander |
| Sheet | 1 | of | 1 | Attorney Docket No. | 7404-571 |

| U.S. PATENT DOCUMENTS | | | | | |
|-----------------------|-----------------------|--|--------------------------------|---|--|
| Examiner Initials* | Cite No. ¹ | Document Number | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines Where Relevant Passages or Relevant Figures Appear |
| | | Number-Kind Code ² (if known) | | | |
| | | US- 4,323,536 | 04/06/1982 | Columbus | |
| | | US- 5,229,299 | 07/20/1993 | Terry | |
| | | US- 5,310,525 | 05/10/1994 | Churchouse | |
| | | US- 5,320,732 | 06/14/1994 | Nankai et al. | |
| | | US- 5,366,902 | 11/22/1994 | Cox et al. | |
| | | US- 5,563,042 | 10/08/1996 | Phillips et al. | |
| | | US- 5,843,691 | 12/01/1998 | Douglas et al. | |
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| FOREIGN PATENT DOCUMENTS | | | | | | |
|--------------------------|-----------------------|---|--------------------------------|---|---|--------------------------|
| Examiner Initials* | Cite No. ¹ | Foreign Patent Document | Publication Date MM-DD-YYYY | Name of Patentee or Applicant of Cited Document | Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear | T ⁶ |
| | | Country Code ³ -Number ⁴ -Kind Code ⁵ (if known) | | | | |
| | | CN 1146016 | 03/26/1997 | Panasonic Corporation | | <input type="checkbox"/> |
| | | JP 5164756 | 6/29/1993 | Rohto Pharmaceutical Co. | | <input type="checkbox"/> |
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| Examiner Signature | | Date Considered | |
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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| | | | | Art Unit | 1743 |
| | | | | Examiner Name | Lyle Alexander |
| Sheet | 2 | of | 2 | Attorney Docket No. | 7404-571 |

| NON PATENT LITERATURE DOCUMENTS | | | |
|---------------------------------|-----------------------|---|--------------------------|
| Examiner Initials* | Cite No. ¹ | Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s) publisher, city and/or country where published | T ² |
| | | Glucometer Elite product and package insert | <input type="checkbox"/> |
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